

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH A. SHERMAN,

Petitioner, No. CIV S-04-1310 LKK KJM P

VS.

**YOLO COUNTY CHIEF PROBATION
OFFICER, et al.,**

Respondents. **ORDER**

Petitioner has filed a document entitled "Motion For Petition To Be Styled An

Appeal Pursuant To Claim Of Fraud On The Court.” In the body of the motion, he refers to

Federal Rule of Civil Procedure 60(b)(3), which permits a court to vacate a judgment which was secured by fraud by an opposing party. Although it is by no means clear, this court will treat the motion as one for relief from judgment.

Petitioner has pursued an appeal from this court's judgment entered on September 27, 2007. The pendency of the appeal in this case has deprived this court of jurisdiction over petitioner's motion; accordingly he must first ask this court if it is willing to consider his motion to vacate the judgment and then seek remand from the Court of Appeals. Williams v. Woodford, 384 F.3d 567, 586 (9th Cir. 2004).

1 Petitioner's pleading, while difficult to comprehend, contains the same arguments
2 and rationalizations presented in the objections to the findings and recommendations. It includes
3 copies of documents relating to petitioner's dissatisfaction with Yolo Bus, the Davis Police
4 Department and the Yolo County District Attorney's Office. None of this suggests that the
5 ultimate resolution of this habeas action was incorrect or was procured by fraud.

6 Accordingly, this court is not willing to entertain petitioner's March 19, 2008
7 motion for relief from judgment.

8 IT IS SO ORDERED.

9 DATED: April 29, 2008

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12 LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT

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